



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-877]

Stainless Steel Flanges from India: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Investigation; Notice of Amended Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 20, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Echjay Forgings Private Limited v. United States*, Consol. Court no. 18-00230, sustaining the Department of Commerce (Commerce)’s remand redetermination pertaining to the antidumping duty (AD) investigation of stainless steel flanges (flanges) from India covering the period of investigation, July 1, 2016, through June 30, 2017. Commerce is notifying the public that the CIT’s final judgment is not in harmony with Commerce’s final determination in that investigation, and that Commerce is amending the final determination and the resulting AD order with respect to the dumping margin assigned to Echjay Forgings Private Limited (Echjay) and the “all other” companies.

DATES: Applicable August 30, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0213.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 2018, Commerce published its *Final Determination* in the AD investigation of flanges from India.¹ Commerce found that Echjay, along with Echjay Industries Private Limited (EIPL), Echjay Forgings Industry Private Limited (EFIPL), and Spire Industries Private Limited (Spire), constituted a single entity. Having collapsed the companies, Commerce requested that Echjay provide information on behalf of the constituent companies of the collapsed entity. Echjay did not provide such information. Therefore, Commerce treated Echjay as noncooperative and assigned Echjay a margin based on facts available, with adverse inferences (AFA). Specifically, Commerce assigned Echjay a dumping margin of 145.25 percent and a cash deposit rate of 140.39 percent, accounting for an export subsidy offset based on the parallel countervailing duty (CVD) investigation.² Commerce subsequently published the AD order on flanges from India.³

Echjay appealed Commerce's *Final Determination*. On October 8, 2020, the CIT remanded the *Final Determination* to Commerce, concluding that Commerce's finding of affiliation and subsequent decision to collapse Echjay with EIPL, EFIPL and Spire were unsupported by substantial evidence.⁴

In its remand redetermination, issued in February 2021, Commerce revisited its prior collapsing determination and concluded that it was not appropriate to treat Echjay, EIPL, EFIPL, and Spire as a single entity. As a result, Commerce also revisited its concomitant application of AFA in determining Echjay's weighted-average dumping margin and calculated a revised

¹ See *Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination*, 83 FR 40745, 40746 (August 15, 2018) (*Final Determination*).

² *Id.*, 83 FR 40746.

³ See *Stainless Steel Flanges from India: Antidumping Duty Order*, 83 FR 50639 (October 9, 2018).

⁴ See *Echjay Forgings Private Limited v. United States*, 475 F. Supp. 3d 1350 (CIT 2020).

dumping margin for the company.⁵ Finally, in light of Echjay’s revised margin, and the method used in the investigation for determining the all-others rate, we calculated a revised all-others rate of 7.00 percent. The CIT sustained Commerce’s final redetermination.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s August 20, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Determination*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court judgment, Commerce is amending its *Final Determination* as follows:

Company	Dumping Margin	Cash Deposit Rate
Echjay Forgings Private Limited	4.58%	0.00% ⁹
All Others	11.87%	7.00% ¹⁰

Cash Deposit Requirements

⁵ See Final Results of Redetermination Pursuant to Court Remand, *Echjay Forgings Private Limited v. United States*, Consol. Court No. 18-00230, Slip Op 20-140 (February 17, 2021).

⁶ See *Echjay Forgings Private Limited v. United States*, Consol. Court No. 18-00230, Slip. Op. 21-105 (CIT August 20, 2021).

⁷ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

⁹ Commerce reduced Echjay’s dumping margin by the *ad valorem* export subsidy rate (4.87 percent) found in the companion CVD investigation. See *Final Determination*, 83 FR 40746.

¹⁰ We calculated this rate by offsetting the weighted-average margin determined for the “all others” companies of 11.87 percent by the export subsidies rate (4.87 percent) found in the companion CVD investigation.

Because there is a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review,¹¹ we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP) for Echjay. Commerce will issue revised all-others cash deposit instructions to CBP.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: September 2, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021-19442 Filed: 9/7/2021 8:45 am; Publication Date: 9/8/2021]

¹¹ See *Stainless Steel Flanges from India: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 86 FR 47619 (August 26, 2021).